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Attorneys for Defendant DAMIAN SPARKS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

MIGUEL RODRIGUEZ CORTEZ, et al.,

Plaintiffs,

vs.

COUNTY OF MERCED, et al.,

Defendants.

Case No. 1:20-cv-00161-NONE-SAB

ORDER RE STIPULATED PROTECTIVE
ORDER

(ECF No. 14)

STIPULATION

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3 1. The parties to the above-entitled action, Defendants COUNTY OF MERCED, *et al.*, and
4 Plaintiffs MIGUEL RODRIGUEZ CORTEZ and VIKTORIA DESIREE MERCADO, by and through
5 their counsel of record, hereby stipulate to entry of the attached protective order covering materials
6 produced or received (including in response to subpoenas) in relation to an early settlement conference
7 which they intend to schedule. The parties acknowledge that this Order does not confer blanket
8 protections on all disclosures or responses to discovery and that the protection it affords from public
9 disclosure and use extends only to the limited information or items that are entitled to confidential
10 treatment under the applicable legal principles. The parties further acknowledge, as set forth in
11 Paragraph 5, below, that this Stipulated Protective Order does not entitle them to file confidential
12 information under seal; rather, Civil Local Rule 141 sets forth the procedures that must be followed and
13 the standards that will be applied when a party seeks permission from the court to file material under
14 seal.

15 The materials included in the above-mentioned protective order are as follows:

- 16 a. Medical records; and
17 b. Any document produced formally or informally in connection with the early
18 settlement conference, which the parties are in the process of scheduling.

19 All “confidential material” shall be designated by stamping or otherwise marking each such
20 document as follows: “CONFIDENTIAL—SUBJECT TO PROTECTIVE ORDER”.

21 2. Confidential material shall be used solely in connection with the early settlement
22 conference in the within action (Case No. 1:20-cv-00161-NONE-SAB) and not for any other purpose,
23 including any other litigation, without the express approval of this court, except as set forth in paragraph
24 7(a), below.

25 3. Confidential material may not be disclosed, except as is provided in paragraphs 4 and 5,
26 below.

27 4. Confidential material may be disclosed only to the following persons: (a) counsel for any
28 party to this litigation; (b) paralegal, stenographic, clerical, and secretarial personnel regularly employed

1 by counsel for the parties in this litigation; (c) court personnel, including stenographic reporters engaged
2 in such proceedings as are necessarily incidental to preparation for trial in this action; and (4) retained
3 experts. Nothing in this paragraph (4) is intended to prevent officials or employees of any defendant, or
4 other authorized government officials, from having access to the documents so designated if they would
5 have such access in the normal course of their job duties. Furthermore, nothing herein prevents any
6 witness from disclosing events or activities personal to him or her. Finally, nothing in this paragraph (4)
7 prevents defendant SPARKS from viewing materials produced from his own personnel file.

8 5. Without written permission from the party designating materials as confidential or a court
9 order secured after appropriate notice to all interested persons, a party may not file in the public record in
10 this action any confidential material. A party that seeks to file under seal any confidential material must
11 comply with Civil Local Rule 141. Confidential material may only be filed under seal pursuant to a court
12 order authorizing the sealing of the specific confidential material at issue. Pursuant to Civil Local Rule
13 141, a sealing order will issue only upon a request establishing that the confidential material at issue is
14 privileged, protectable as a trade secret, or otherwise entitled to protection under the law. If a request by
15 a party in receipt of material designated confidential to file said confidential material under seal pursuant
16 to Civil Local Rule 141 is denied by the court, then the party in receipt of the material designated as
17 confidential may file the information in the public record unless otherwise instructed by the court.

18 6. Each person to whom disclosure is made, with the exception of counsel, who are
19 presumed to know the contents of this protective order, shall be provided by the person furnishing him or
20 her "confidential material," as designated hereunder, with a copy of this order, and shall agree on the
21 record, in writing, that he or she has read this protective order and consents to be subject to the
22 jurisdiction of this court with respect to the enforcement of this order, including without limitation, any
23 proceeding for contempt. Unless such agreement is made on the record in this litigation, counsel making
24 the disclosure to any person described above shall retain the original executed copy of said written
25 agreement until final termination of this litigation.

26 7. If the matter settles at the conclusion of the early settlement conference all confidential
27 material received under the provisions of this order, including any copies made thereof, shall be tendered
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1 back to the appropriate parties or their attorneys. Provisions of this order, insofar as they restrict the
2 disclosure and use of the material, shall remain in full force and effect until further order of this court.

3 a. If the matter does not resolve at the conclusion of the early settlement conference,
4 any documents secured by subpoena shall be used solely in connection with the litigation in this action
5 (Case No. 1:20-cv-00161-NONE-SAB) and not for any other purpose, including any other litigation,
6 without the express approval of this court.

7 8. The foregoing is without prejudice to the right of any party to this action: (a) to apply to
8 the court for a further protective order relating to any confidential material or relating to discovery in this
9 litigation; (b) to apply to the court for an order removing the confidential material designation from any
10 document; and, (c) to apply to the court for an order compelling production of documents or for
11 modification of this order or for any order permitting disclosure of confidential material beyond the terms
12 of this order.

13 Counsel for the parties to this action hereby declare that they have read the foregoing, that they
14 approve thereof as to form and content, and that, on behalf of their clients in this action, they stipulate
15 thereto.

16 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

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19 Dated: April 16, 2020

Respectfully Submitted,
LAW OFFICE OF MARK E. MERIN
/s/ Mark E. Merin
(as authorized on April 16, 2020)

21 By: _____
22 Mark E. Merin
23 Attorneys for Plaintiffs
24 MIGUEL RODRIGUEZ CORTEZ
25 and VIKTORIA DESIREE MERCADO
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1 Dated: April 13, 2020

Respectfully Submitted,
Merced County Counsel's Office
/s/ Roger Matzkind
(as authorized on April 13, 2020)

By: _____

Roger S. Matzkind
Janine L. Highiet-Ivicevic
Attorneys for Defendants
COUNTY OF MERCED, MERCED COUNTY
SHERIFF'S OFFICE, and VERNON H. WARNKE

8 Dated: April 17, 2020

Respectfully Submitted,
Berry | Wilkinson | Law Group

By: /s/ Alison Berry Wilkinson
Attorneys for Defendant DAMIAN SPARKS

12 **ATTORNEY ATTESTATION**

13 I, Alison Berry Wilkinson, am the ECF user whose identification and password are being
14 used to file the foregoing documents. Pursuant to Local Rule 131(e), I hereby attest that concurrence
15 in the filing of these documents has been obtained from each of its signatories.

16 Dated: April 17, 2020

By: /s/ Alison Berry Wilkinson
Alison Berry Wilkinson

19 **ORDER**

20 Pursuant to the stipulation of the parties, IT IS HEREBY ORDERED that:

- 21 1. The parties' stipulation for a protective order is issued covering materials produced or
22 received (including in response to subpoenas) in relation to the agreed early settlement
23 conference. All documents produced formally or informally in connection with the early
24 settlement conference, including medical records, shall be handled in accordance with
25 paragraphs 1-8 above.
- 26 2. The parties are advised that pursuant to the Local Rules of the United States District
27 Court, Eastern District of California, any documents which are to be filed under seal
28 will require a written request which complies with Local Rule 141; and

- 1 3. The party making a request to file documents under seal shall be required to show
2 good cause for documents attached to a nondispositive motion or compelling reasons
3 for documents attached to a dispositive motion. Pintos v. Pacific Creditors Ass'n,
4 605 F.3d 665, 677-78 (9th Cir. 2009).

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6 IT IS SO ORDERED.

7 Dated: April 17, 2020

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UNITED STATES MAGISTRATE JUDGE